

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RUDOLF A. OETKER KG,

Plaintiff,

- against -

TONIQUE OIL SERVICES LTD,

Defendant.

07 CV 7429 (GEL)

ECF CASE

**STIPULATION AND ORDER DIRECTING
RELEASE OF ATTACHED PROPERTY**

IT IS HEREBY STIPULATED AND AGREED, between Plaintiff RUDOLF A. OETKER KG (hereinafter referred to as "Plaintiff") and Defendant TONIQUE OIL SERVICES LTD (hereinafter referred to as "Defendant") that:

WHEREAS, on or about August 21, 2007 this action was commenced by Plaintiff against Defendant in respect of a claim for nonpayment of outstanding demurrage arising under a charter party dated October 24, 2006 that involved the carriage of a fuel cargo aboard the vessel LEPTA MERMAID; and

WHEREAS, on or about August 22, 2007 the Court issued an ex parte order of maritime attachment that authorized the restraint of Defendant's funds within the District in an amount up to \$271,011.29, and

WHEREAS, on or about October 31, 2007 garnishee bank Citibank attached Defendant's electronic funds transfer payment and restrained the amount of \$271,011.29 (hereinafter referred to as "the Attached Funds") pursuant to the ex parte order of maritime attachment; and

WHEREAS, Plaintiff and Defendant have entered into a Settlement and Discharge Agreement on December 10, 2007 (hereinafter referred to as "the Agreement"), which is annexed as Exhibit One, pursuant to which Defendant will pay Plaintiff \$200,000.00, and

WHEREAS, the Agreement provides that the \$200,000.00 settlement in favor of Plaintiff shall be paid out of the Attached Funds pursuant to wire instructions to be provided to Citibank by Plaintiff's attorneys Lennon, Murphy & Lennon, LLC; and


WHEREAS, the Agreement provides that the remainder of the Attached Funds, i.e., about \$71,011.29, shall thereafter be released to Defendant, and

WHEREAS, once the settlement has been funded this action shall be discontinued,
IT IS HEREBY STIPULATED AND AGREED between Plaintiff and Defendant,
through their respective undersigned counsel, as follows:

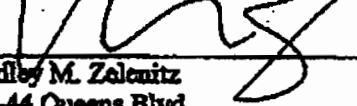
1. In accordance with the Agreement, Citibank shall immediately release to Plaintiff \$200,000.00 of the Attached Funds pursuant to wire instructions to be provided by Plaintiff's attorneys, Lennon, Murphy & Lennon, LLC;
2. After receipt of the settlement funds by Plaintiff, Plaintiff shall then instruct Citibank to release the remainder of the Attached Funds, i.e., about \$71,011.29, from attachment;
3. Once Plaintiff has received the settlement funds, it shall promptly dismiss this case without prejudice and without costs to either party.

Dated: February 19, 2008

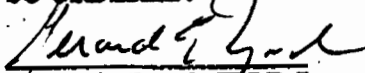
LENNON, MURPHY & LENNON, LLC
Attorneys for Plaintiff
RUDOLF A. OETKER KG,

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SO ORDERED:


Gerard E. Lynch, U.S.D.J.

3/4/08